



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** The Pepperdine Corporation

**File:** B-227418

**Date:** June 18, 1987

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### **DIGEST**

Protest filed in General Accounting Office more than 10 working days after notice of adverse agency action on agency level protest is dismissed as untimely.

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### **DECISION**

The Pepperdine Corporation protests the award of a contract by the Navy to Fourth Dimension Design and Construction for contract No. N62470-87-C-5789 for renovation work at the Norfolk Naval Shipyard. Pepperdine asserts that Fourth failed to acknowledge two solicitation amendments.

We dismiss the protest as untimely.

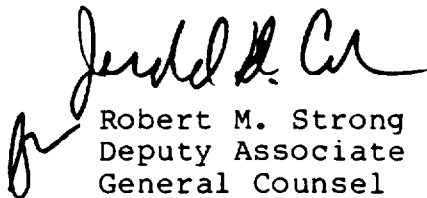
Bid opening occurred on February 24, 1987. Pepperdine protested to the Navy by letter dated February 27, asserting that the apparent low bidder, Fourth, was nonresponsive because of its failure to acknowledge two solicitation amendments. By letter dated May 8, the Navy advised Pepperdine that award had been made to Fourth. By letter to the Navy, dated May 14, Pepperdine again protested that Fourth had failed to acknowledge the amendments, and requested that our Office investigate the matter. Our Office first received notice of Pepperdine's protest on June 8, in a letter from Pepperdine, dated June 2. Enclosed with that letter was a copy of Pepperdine's May 14 letter to the Navy.

Under our Bid Protest Regulations, when a protest has been filed initially with the contracting agency, any subsequent protest to our Office must be filed within 10 working days of formal notification of or actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 21.2(a)(3) (1986). Here, the Navy's May 8 letter to Pepperdine advising that award had been made to Fourth constituted notice of adverse agency action. Pepperdine's protest was not filed in our Office until a month later, when we first received a copy of Pepperdine's May 14 letter to the Navy.

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Since Pepperdine's protest was not filed in our Office until more than 10 working days after notice of adverse agency action, it is untimely. Our Regulations specify the address that must be used on protests to assure that mail will be correctly received and routed to the office that is responsible for handling the matter. 4 C.F.R. § 21.1(b). Correspondence such as Pepperdine's May 14 letter which is mailed to the contracting agency is not considered to be filed in our Office when it is received by the contracting activity. Sound Partnership--Request for Reconsideration, B-220915.2, Jan. 13, 1986, 86-1 CPD ¶ 32. Rather, the protest is considered to be filed on the date on which it is actually received by our Office.

The protest is dismissed as untimely.

  
Robert M. Strong  
Deputy Associate  
General Counsel